

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN THE MATTER OF	:	
THE EXTRADITION OF	:	Mag. No. 13-3588 (MF)
DIEUSEUL JEAN	:	

MOTION FOR STAY OF EXTRADITION PROCEEDINGS

NOW COMES petitioner, Dieuseul Jean, by and through his counsel, the Office of the Federal Public Defender, District of New Jersey, Lorraine Gauili-Rufo appearing, and moves this Court to grant a stay of his extradition proceedings. In support of this application, Mr. Jean states to the Court as follow:

1. On March 19, 2013, A Complaint for Provisional Arrest with a View Towards Extradition was filed against Mr. Jean, by the Government, in response to a request from Canadian authorities, seeking Mr. Jean's extradition to Quebec, Canada, as a suspect in a 1995 murder. The motion was made pursuant to 18 U.S.C. § 3184 and the corresponding treaty between Canada and the United States.
2. At the time of the complaint, Mr. Jean, a native and citizen of Haiti, had been residing in Newark, New Jersey for several years.
3. Mr. Jean was ordered detained pending resolution of the extradition petition and is in the custody of the United States Marshal and currently remains in detention awaiting extradition.
4. Mr. Jean challenged extradition to Canada on the grounds that there was no probable cause or reliable evidence to find that he was guilty of the

accused offense. On July 29, 2013, he filed a legal brief in support of his opposition to extradition.

5. A hearing was held before a federal magistrate judge on August 21, 2013. During the hearing, Mr. Jean again argued there was no legal evidence that supported a finding of probable cause to sustain the charges against him in Canada.
6. At the conclusion of the hearing, the federal magistrate judge granted the Government's request for extradition of Mr. Jean to Canada.
7. Mr. Jean plans to file a Writ of Habeas Corpus for review of the magistrate judge's decision pursuant to 28 U.S.C. § 2241 et.seq., arguing that the evidence offered by the Government and Canada did not support the federal magistrate judge's finding that there was probable cause he was guilty of the charged offense.
8. Habeas corpus review of an extradition order under a treaty with a foreign country is limited, but includes review of "whether there was any evidence warranting the finding that there was reasonable ground to believe the accused guilty." *Fernandez v. Phillips*, 268 U.S. 311, 312 (1925); *Hoxha v. Levi*, 465 F.3d 554, 561 (3d Cir. 2006).
9. Under 18 U.S.C. §3188, a person held for extradition is expected to be surrendered to the requesting authorities within two months of the extradition order.
10. Mr. Jean respectfully requests that this Court stay the extradition proceedings until he has filed his habeas writ and said writ has been reviewed, as well as any other appeals have been exhausted.
11. A District Court may grant a stay pending appeal pursuant to Federal Rule of Appellate Procedure 8(a).

WHEREFORE, Mr. Jean respectfully requests that this court stay the extradition proceedings against him while he seeks review of the magistrate judge's August 22, 2013 decision and order.

Respectfully submitted,

s/ Lorraine Gauli-Rufo
Lorraine Gauli-Rufo
Assistant Federal Public Defender
1002 Broad Street
Newark, New Jersey, 07102

CERTIFICATE OF SERVICE

I certify that I caused the foregoing Motion for Stay of Extradition Proceedings to be served upon the following person:

Via electronic filing to:
Elizabeth Harris, AUSA
United States Attorney's Office, District of New Jersey
970 Broad Street
Newark, NJ 07102

August 29, 2013

/s/ Lorraine Gauli-Rufo